

Order

Michigan Supreme Court
Lansing, Michigan

February 1, 2008

Clifford W. Taylor,
Chief Justice

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Michael F. Cavanagh
Elizabeth A. Weaver
Marilyn Kelly
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman,
Justices

LAKE FOREST PARTNERS 2, INC.,
Petitioner-Appellee,

v

SC: 132013
COA: 257417
MTT: 00-292089

DEPARTMENT OF TREASURY,
Respondent-Appellant.

On October 3, 2007, the Court heard oral arguments on the application for leave to appeal the June 6, 2006 judgment of the Court of Appeals. On order of the Court, the application for leave to appeal is again considered and, pursuant to MCR 7.302(G)(1), in lieu of granting leave to appeal, we REVERSE the part of the Court of Appeals judgment that reversed the Michigan Tax Tribunal order that concluded that petitioner should have paid the State Real Estate Transfer Tax based on the value of the lots as improved by the homes. The State Real Estate Transfer Tax Act, MCL 207.521, *et seq.*, taxes recorded instruments. MCL 207.523. In this case, the only recorded instrument was the deed. The “value” exchanged for that deed included both the cost of the lot and the home; thus, the tax tribunal correctly held that that value was the proper measure for taxation.

We REVERSE the Michigan Tax Tribunal’s order imposing penalties against petitioner. The Department of Treasury did not prove that petitioner acted negligently or with any intent to defraud when it paid taxes on the value of the unimproved land. The imposition of penalties is not warranted in the absence of such evidence. MCL 205.23(3); Michigan Administrative Code, R 205.1012. We REMAND this case to the Michigan Tax Tribunal for entry of an order reinstating petitioner’s assessment but reversing the imposition of penalties.

CAVANAGH, J., would deny leave to appeal.

KELLY, J., would grant leave to appeal.



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I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

February 1, 2008

Corbin R. Davis

Clerk